IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5343 OF 2006

Smt.Prerana A.Thokore ...Petitioner

vs.

Assistant Charity Commissioner,
Mumbai and others ...Respondents

Ms Gauri Jadhav for the Petitioner
Ms Vaidehi Mhaispurkar,A.G.P. for State

CORAM: A.S.OKA,J.
DATE : MARCH 2,2007.

P.C.:

1. Heard Advocate for the Petitioner. The Advocate for the Petitioner states that notice has been duly served to the contesting Respondents. An Application was made by the Petitioner who is the reporting trustee in a change report proceedings praying for appointment of a Court Commissioner for recording the cross examination of the Petitioner. The said Application was made on the ground that the Petitioner was under treatment for heart disease and other ailments. The said Application has been rejected by the order impugned in this petition by the learned Assistant Charity Commissioner on the ground that an earlier application for similar relief has been rejected.

2. A Medical certificate was produced by the Petitioner along with the Application for appointment of a Court Commissioner.

As the Petitioner has applied for appointment of a Court Commissioner, it is obvious that the Petitioner has to bear the costs of the Commissioner. In my view, the Application for appointment of Court Commissioner ought to have been allowed.

3. Hence, I pass the following order :

i) Impugned order dated 12th June 2006 is quashed and set aside. The learned Assistant Charity Commissioner will appoint any practicing Advocate as a Court Commissioner for recording the evidence of the Petitioner who is the reporting trustee. It will be responsibility of the Petitioner to bear the costs of the Court Commissioner including the remuneration of the Court Commissioner.

ii) Writ petition is disposed of in above terms.

iii) Parties to act upon an authenticated copy of this order.

JUDGE